



**BARTHOLOMEW COUNTY
BOARD OF ZONING APPEALS
HEARING OFFICER
(October 11, 2011 Meeting)**

STAFF REPORT

Docket No. / Project Title: B/DS-11-06 (Country Hearth & Garden)
Staff: Derek Naber
Hearing Officer: Thom Weintraut Jr.

Applicant: William Cole
Property Size: 6.75 Acres
Current Zoning: AG (General Rural)
Location: 11425 South Jonesville Road, in Wayne Township

Background Summary:

The applicant has indicated that the proposed variance from Zoning Ordinance Section 10 (Table 10.1) is for the purpose of allowing a freestanding sign in the AG (Agriculture General) zoning district. A use variance for Country Hearth and Garden (B/UV-11-01) was approved by the Bartholomew County Board of Zoning Appeals on April 25, 2011.

Preliminary Hearing Officer Decision:

Approval, all criteria have been met.

The approval shall be subject to the following condition: The temporary banner and 3 yard signs that are currently placed in violation of the Zoning Ordinance will be removed.

Zoning Ordinance Considerations:

District Intent: The intent of the AG (Agriculture – General Rural) zoning district is as follows: To provide areas for a mixture of agricultural and residential land uses. This mixture is intended to support the long-term viability of agricultural operations, while also allowing increased non-agricultural development in areas adjacent to developed infrastructure. This district should be used to provide unique, rural housing options and the future ability to extend urban infrastructure.

Development Standards: Zoning Ordinance Section 10 (Table 10.1)(1) states that all signs listed as conditional may be approved by the Board of Zoning Appeals in association with any conditional use in the applicable zoning district.

Current Property Information:	
Land Use:	Single-Family Residential, Small Scale Retail, Garden Center, Restaurant

Site Features:	The site features a single-family residence, detached garage, 3 barns, chicken house, smoke house, storage shed, 2 greenhouses, swimming pool, stone parking area and drives, trees, and shrubs.
Flood Hazards:	The eastern part of the property is in the 100 year floodplain.
Vehicle Access:	The property gains access from State Road 11 (State Road Arterial).

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	AG (General Rural)	Agriculture
South:	AG (General Rural)	Single-Family Residential, Agriculture
East:	AG (General Rural)	Agriculture
West:	AG (General Rural)	Single-Family Residential, Agriculture

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. Country Hearth & Garden is requesting a 7 foot by 7 foot (49 square foot) freestanding sign. The sign will have a height of 8 feet. The sign is located outside of the sight visibility triangle and not in the public right-of-way. Additionally the applicant is proposing 60 points of landscaping within 5 feet of the base of the freestanding sign (40 points are required by Zoning Ordinance Section 8.1(C)(5)).
2. The sign is composed of two sign areas which are meant to read as a whole. One area describes the title of the business: "Country Hearth & Garden," while the other describes one of its products: "Wolfcreek Wines."
3. On June 27, 2011, the Board of Zoning Appeals approved of a use variance to allow a garden center, tea room, and retail sales in an AG (General Rural) zoning district. As part of the approval of the variance, one of the conditions of approval was that all signs shall be brought into compliance with the Zoning Ordinance.
4. The Zoning Ordinance, in Section 10 (Table 10.1), only permits freestanding signs through a conditional use request for uses listed as conditional. The previously approved uses were approved through a use variance request, which means the freestanding sign for these uses can only be approved through a development standards variance.
5. Zoning Ordinance Section 10 (Table 10.1) limits freestanding signs for properties in the AG (General Agriculture) zoning district for conditional uses, to one sign per frontage per lot, whose square footage not exceed 50 square feet and height not exceed 15 feet.
6. The subject property currently displays an unapproved temporary banner and 3 unapproved yard signs.

Provisional Findings of Fact/Decision Criteria:

The Board of Zoning Appeals Hearing Officer may approve or deny variances from the development standards of the Bartholomew County Zoning Ordinance. The Hearing Officer may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The freestanding sign is not located in any restricted area such as the visibility triangle, required setbacks, or public right-of-way. *This criterion has been met.*

2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: The freestanding sign meets the square footage, height, and landscaping requirements of the Zoning Ordinance for conditionally approved uses in the AG (General Rural) zoning district. The sign will fit the surrounding context and serve as guide to visitors and customers. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: The approved uses at the property need a freestanding sign to better direct visitors and customers. The sign meets the intent of the Zoning Ordinance for similar uses at similar locations and will provide a visible identification of the business. *This criterion has been met.*

Hearing Officer Options:

In reviewing a request for development standards variance the Hearing Officer may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Hearing Officer, (4) deny the petition (with or without prejudice), or (5) forward the petition to the full Board of Zoning Appeals.